



RECEIVED JUN 14 2010

Folder: 2537-13

ENERGY SOLUTIONS INC  
200 GRAND AVE  
SUITE 319  
GRAND JUNCTION CO 81501

**RE: Lease Covering Use of Railroad Property at Moab, Utah**


Dear Mr. Baker:

Attached for your permanent record is a fully executed original of the above-referenced Lease.

The Railroad Company has authorized the installation of fiber optic cable facilities on its property in certain areas. **Prior to digging on the Railroad's property you must contact the Railroad Company at 1-800-336-9193 to determine if this property contains fiber optic cable.** In any event, you should thoroughly review the terms and conditions of this Lease.

In compliance with the Internal Revenue Service's policy regarding Form 1099, please be advised that 94-6001323 is Union Pacific Railroad Company's Federal Taxpayer Identification Number and we are doing business as a corporation.

Sincerely,

  
Jeffrey D. Matter  
Manager - Real Estate  
(402) 544-8554

URANIUM MILL TAILINGS  
RAILROAD FACILITIES LEASE AGREEMENT

**LEASE OF PROPERTY**  
(INDUSTRIAL LEASE - UNIMPROVED - YEAR TO YEAR)

This LEASE OF PROPERTY ("Lease") is entered into on 5/25, 2010, between **UNION PACIFIC RAILROAD COMPANY** ("Railroad") and **ENERGY SOLUTIONS INC.**, a Utah corporation whose address is 200 Grand Ave Suite 319, Grand Junction, Colorado 81501 ("Industry").

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

Article 1. USE OF PREMISES

RAILROAD leases to INDUSTRY and INDUSTRY leases from RAILROAD the premises ("Premises") located at Moab, Utah, shown on the print dated November 24, 2008, marked Exhibit A, hereto attached and made a part hereof, subject to all provisions of this Lease. The Premises may be used for loading and unloading of uranium tailings onto railcars, and purposes incidental thereto only, and for no other purpose.

Article 2. TERM

The term of this LEASE OF PROPERTY shall commence on April 4, 2009 notwithstanding a date of execution subsequent to this effective date, unless sooner terminated as provided for Article 16 of this LEASE OF PROPERTY, shall extend for one year and thereafter shall automatically be extended from year to year.

Article 3. FIXED RENT

- A. INDUSTRY shall pay to RAILROAD, in advance, fixed rent of Six Thousand Two Hundred Fifty Dollars (\$6,250.00) annually. The rent shall be automatically increased by three percent (3%) annually, cumulative and compounded.
- B. Not more than once every three (3) years, RAILROAD may re-determine the fixed rent. If RAILROAD re-determines the rent, RAILROAD shall notify INDUSTRY of such change. In no event may the fixed rent be adjusted by more than 3.5% on a yearly basis.
- C. Rent (which includes the fixed advance rent and all other amounts to be paid by INDUSTRY under this LEASE OF PROPERTY) shall be paid in lawful money of the United States of America, at such place as shall be designated by RAILROAD, and without offset or deduction.

Article 4. INSURANCE.

- A. Before commencement of the term of this Lease, INDUSTRY shall provide to RAILROAD a certificate issued by its insurance carrier evidencing the insurance coverage required under **Exhibit C**, attached hereto and made a part hereof.
- B. Not more frequently than once every two years, RAILROAD may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.
- C. All insurance correspondence, certificates and endorsements shall be directed to: Real Estate Department, 1400 Douglas Street, STOP 1690, Omaha, Nebraska 68179-1690, Folder No. 02537-13.

Article 5. IMPROVEMENTS.

- A. No improvements placed upon the Premises by INDUSTRY shall become a part of the realty.

Article 6. RESERVATIONS, TITLE AND PRIOR RIGHTS.

- A. RAILROAD reserves to itself, its agents and contractors, the right to enter the Premises at such times as will not unreasonably interfere with INDUSTRY's use of the Premises.
- B. RAILROAD reserves (i) the exclusive right to permit third party placement of advertising signs on the Premises, and (ii) the right to construct, maintain and operate new and existing facilities (including, without limitation, trackage, fences, communication facilities, cables, roadways and utilities) upon, over, across or under the Premises, and to grant to others such rights, provided that INDUSTRY's use of the Premises is not interfered with unreasonably.
- C. INDUSTRY acknowledges that RAILROAD makes no representations or warranties, express or implied, concerning the title to the Premises, and that the rights granted to INDUSTRY under this LEASE OF PROPERTY do not extend beyond such right, title or interest as RAILROAD may have in and to the Premises. Without limitation of the foregoing, this LEASE OF PROPERTY is made subject to all outstanding rights, whether or not of record. RAILROAD reserves the right to renew any such outstanding rights granted by RAILROAD or RAILROAD's predecessors.
- D. Without limitation of subparagraphs B. and C. above, INDUSTRY shall not interfere in any manner with the use or operation of any signboards now or hereafter placed on the Premises or with any property uses in connection with such signboards (such as, by way of example and not in limitation, roadways providing access to such signboards). In no event may INDUSTRY construct on the Premises any improvements that interfere in any manner with the visibility or operation of any signboards now or hereafter on the Premises or on RAILROAD's property in proximity to the Premises.

Article 7. TAXES AND ASSESSMENTS.

- A. INDUSTRY shall pay, prior to delinquency, all taxes levied during the life of this Lease on all personal property and improvements on the Premises not belonging to RAILROAD. If such taxes are paid by RAILROAD, either separately or as a part of the levy on RAILROAD's real property, INDUSTRY shall reimburse RAILROAD in full within thirty (30) days after rendition of RAILROAD's bill.
- B. If the Premises are specially assessed for public improvements, the annual rent will be automatically increased by 12% of the full assessment amount.

Article 8. WATER RIGHTS.

- A. This LEASE OF PROPERTY does not include any right to the use of water under any water right of RAILROAD, or to establish any water rights except in the name of RAILROAD.

Article 9. CARE AND USE OF PREMISES.

- A. INDUSTRY shall use reasonable care and caution against damage or destruction to the Premises. INDUSTRY shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. INDUSTRY shall keep the sidewalks and public ways on the Premises, and the walkways appurtenant to any RAILROAD spur track(s) on or serving the Premises, free and clear from any substance which might create a hazard.
- B. INDUSTRY shall not permit any sign on the Premises, except signs relating to INDUSTRY's business.
- C. If any improvement on the Premises other than the RAILROAD's improvements is damaged or destroyed by fire or other casualty, INDUSTRY shall, within thirty (30) days after such casualty, remove all debris resulting therefrom. If INDUSTRY fails to do so, RAILROAD may remove such debris, and INDUSTRY agrees to reimburse RAILROAD for all expenses incurred within thirty (30) days after rendition of RAILROAD's bill.
- D. INDUSTRY shall comply with all governmental laws, ordinances, rules, regulations and orders relating to INDUSTRY's use of the Premises and this LEASE OF PROPERTY, including, without limitation, any requirements for subdividing or platting the Premises.

Article 10. HAZARDOUS MATERIALS, SUBSTANCES AND WASTES.

- A. Without the prior written consent of RAILROAD, INDUSTRY shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances, except that INDUSTRY may use, if lawful, small quantities of common chemicals such as adhesives, lubricants and cleaning fluids in order to conduct business at the Premises. The consent of RAILROAD may be withheld by RAILROAD for any reason whatsoever, and may be subject to conditions in addition to those set forth below. It

shall be the sole responsibility of INDUSTRY to determine whether or not a contemplated use of the Premises is a Hazardous Substance use. RAILROAD hereby acknowledges its consent to use the property for the loading and unloading of uranium tailings.

- B. In no event shall INDUSTRY (i) release, discharge or dispose of any Hazardous Substances on the Premises, (ii) bring any Hazardous Waste onto the Premises, (iii) install or use on the Premises any underground storage tanks, or (iv) store any Hazardous Substances within one hundred feet (100') of the center line of any main track.
- C. For purposes of this Article 10, the term "Hazardous Substance" shall mean (i) those substances included within the definitions of "hazardous substance", "pollutant", "contaminant", or "hazardous waste", in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq., as amended, or in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended, the regulations promulgated pursuant to either such Act, or state laws and regulations similar to or promulgated pursuant to either such Act, (ii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) flammable or explosive, or (D) radioactive; and (iii) such other substances, materials and wastes which are or become regulated or classified as hazardous or toxic under any existing or future federal, state or local law.
- D. If INDUSTRY uses or permits the use of the Premises for a Hazardous Substance use, with or without RAILROAD's consent, INDUSTRY shall furnish to RAILROAD copies of all permits, identification numbers and notices issued by governmental agencies in connection with such Hazardous Substance use, together with such other information on the Hazardous Substance use as may be requested by RAILROAD. If requested by RAILROAD, INDUSTRY shall cause to be performed an environmental assessment of the Premises upon termination of this LEASE TO PROPERTY, at INDUSTRY's sole cost and expense, and shall furnish to RAILROAD a copy of such report.
- E. Without limiting any provision of Article 15 under this LEASE OF PROPERTY, INDUSTRY shall be responsible for all damages, losses, costs, expenses, claims, fines and penalties related in any manner to any of INDUSTRY's hazardous substances on the Premises (including damage to any of RAILROAD's property in proximity to the Premises) during the term of this LEASE OF PROPERTY. Such liability includes, without limitation, (i) any diminution in the value of the Premises and/or any adjacent property of any Indemnified Parties (as defined by Article 15), and (ii) the cost and expense of clean-up, restoration, containment, remediation, decontamination, removal, investigation, monitoring, closure or post-closure.
- F. Notwithstanding the foregoing, INDUSTRY shall not be responsible for Hazardous Substances (i) existing on, in or under the Premises prior to the earlier to occur of the commencement of the term of the Lease or INDUSTRY's taking occupancy of the Premises, or (ii) migrating from adjacent property not controlled by INDUSTRY, or (iii) placed on, in or under the Premises by RAILROAD or any of the Indemnified Parties referred to in Article 15, except where the contamination is exacerbated by any excavation or investigation undertaken by or at the behest of INDUSTRY. INDUSTRY shall have the burden of proving by a preponderance of the evidence

that any of the foregoing exceptions to INDUSTRY's responsibility for Hazardous Substances applies.

- G. In addition to the other rights and remedies of RAILROAD under this LEASE TO PROPERTY, or as may be provided by law, if RAILROAD reasonably determines that the Premises may have been used during the term of this Lease or any prior lease with INDUSTRY for all or any portion of the Premises, or are being used for any Hazardous Substance use, with or without RAILROAD's consent thereto, and that a release or other contamination may have occurred, RAILROAD may, at its election and at any time during the life of this Lease or thereafter (i) cause the Premises and/or any adjacent premises to be tested, investigated, or monitored for the presence of any Hazardous Substance, (ii) cause any Hazardous Substance to be removed from the Premises and any adjacent lands, (iii) cause to be performed any restoration of the Premises and any adjacent lands, and (iv) cause to be performed any remediation of, or response to, the environmental condition of the Premises and the adjacent lands, as RAILROAD reasonably may deem necessary or desirable, and the cost and expense thereof shall be reimbursed by INDUSTRY to RAILROAD within thirty (30) days after rendition of RAILROAD's bill. In addition, RAILROAD may, at its election, require INDUSTRY, at INDUSTRY's sole cost and expense, to perform such work, in which event, INDUSTRY shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer reasonably approved in advance by RAILROAD.

Article 11. UTILITIES.

- A. INDUSTRY will arrange and pay for all utilities and services supplied to the Premises or to INDUSTRY.
- B. All utilities and services will be separately metered to INDUSTRY. If not separately metered, INDUSTRY shall pay its proportionate share of the cost as reasonably determined by RAILROAD.

Article 12. LIENS.

- A. INDUSTRY shall not allow any liens to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from INDUSTRY's use of the Premises. RAILROAD shall have the right to discharge any such liens at INDUSTRY's expense.

Article 13. ALTERATIONS AND IMPROVEMENTS; CLEARANCES.

- A. No alterations, improvements or installations may be made on the Premises without the prior consent of RAILROAD. Such consent, if given, shall be subject to the needs and requirements of the RAILROAD in the operation of its business and to such other conditions as RAILROAD determines to impose. In all events, such consent shall be conditioned upon strict conformance with all applicable governmental requirements and RAILROAD's then-current clearance standards.
- B. All alterations, improvements or installations shall be at INDUSTRY's sole cost and expense.

- C. INDUSTRY shall comply with RAILROAD's then-current clearance standards, except (i) where to do so would cause INDUSTRY to violate an applicable governmental requirement, or (ii) for any improvement or device in place prior to INDUSTRY taking possession of the Premises if such improvement or device complied with RAILROAD's clearance standards at the time of its installation.
- D. Any actual or implied knowledge by RAILROAD of a violation of the clearance requirements of this LEASE OF PROPERTY or of any governmental requirements shall not relieve INDUSTRY of the obligation to comply with such requirements, nor shall any consent of RAILROAD be deemed to be a representation of such compliance.

Article 14. AS-IS.

- A. INDUSTRY accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. INDUSTRY acknowledges that RAILROAD shall have no duty to maintain, repair or improve the Premises.

Article 15. RELEASE AND INDEMNITY.

- A. As a material part of the consideration for this LEASE TO PROPERTY, INDUSTRY, to the extent it may lawfully do so, waives and releases any and all claims against RAILROAD for, and agrees to indemnify, defend and hold harmless RAILROAD, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against, any loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorneys' fees and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, RAILROAD, INDUSTRY, or any employee of RAILROAD or INDUSTRY) (i) for personal injury or property damage caused to any person while on or about the Premises, or (ii) arising from or related to any use of the Premises by INDUSTRY or any invitee or licensee of INDUSTRY, OR (iii) any act or omission of INDUSTRY, its officers, agents, employees, contractors, subcontractors, licensees or invitees, or (iv) any breach of this LEASE TO PROPERTY by INDUSTRY.
- B. The foregoing release and indemnity shall apply in the event of any negligence, misconduct or strict liability of any Indemnified Party, except that the indemnity, only, shall not apply to any Loss determined by final order of a court of competent jurisdiction to have been caused by the sole active direct negligence or misconduct of any Indemnified Party.
- C. Where applicable to the Loss, the liability provisions of any contract between RAILROAD and INDUSTRY covering the carriage of shipments or trackage serving the Premises shall govern the Loss and shall supersede the provisions of this Article 15.
- D. No provision of this Lease with respect to insurance shall limit the extent of the release and indemnity provisions of this Article 15.

Article 16. TERMINATION.

- A. RAILROAD may terminate this Lease for INDUSTRY's default by giving INDUSTRY notice of termination, if INDUSTRY (i) defaults under any obligation of INDUSTRY under this Lease and, after written notice is given by RAILROAD to INDUSTRY specifying the default, INDUSTRY fails either to immediately commence to cure the default, or to complete the cure expeditiously but in all events within ninety (90) days after the default notice is given, or (ii) INDUSTRY abandons the Premises for a period of one hundred twenty (120) consecutive days.

Article 17. RAILROAD's REMEDIES.

- A. RAILROAD's remedies for INDUSTRY's default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of INDUSTRY, collect and receive the rent from reletting, and charge INDUSTRY for the cost of reletting, and/or (b) terminate this Lease as provided in Article 16 above and sue INDUSTRY for damages, and/or (c) exercise such other remedies as RAILROAD may have at law or in equity. RAILROAD may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out INDUSTRY, all without being liable for damages..

Article 18. VACATION OF PREMISES; REMOVAL OF INDUSTRY'S PROPERTY.

- A. Upon termination howsoever of this Lease, INDUSTRY (i) shall have peaceably and quietly vacated and surrendered possession of the Premises to RAILROAD, without RAILROAD giving any notice to quit or demand for possession, and (ii) shall have removed from the Premises all structures, property and other materials not belonging to RAILROAD, and restored the surface to as good a condition as the same was in before such structures were erected, including, without limitation, the removal of foundations, the filling in of excavations and pits, and the removal of debris and rubbish.
- B. If INDUSTRY has not completed such removal and restoration within thirty (30) days after termination of this Lease, RAILROAD may, at its election, and at any time or times, (i) perform the work and INDUSTRY shall reimburse RAILROAD for the cost thereof within thirty (30) days after bill is rendered, (ii) take title to all or any portion of such structures or property by giving notice of such election to INDUSTRY, and/or (iii) treat INDUSTRY as a holdover tenant at will until such removal and restoration is completed.

Article 19. FIBER OPTICS.

- A. INDUSTRY shall telephone RAILROAD during normal business hours (7:00 a.m. to 9:00 p.m., Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic or other telecommunication cable is buried on the Premises. RAILROAD may change the telephone number and hours of operation by giving INDUSTRY notice of the change. If cable is buried on the Premises, INDUSTRY will telephone the affected telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Notwithstanding compliance by INDUSTRY with this Article 19, the release and indemnity provisions of Article 15 above shall apply fully to any damage or destruction of any telecommunications system.



Article 20. NOTICES.

- A. Any notice, consent or approval to be given under this Lease shall be in writing, and personally served, sent by reputable courier service, or sent by certified mail, postage prepaid, return receipt requested, to RAILROAD at: Union Pacific RAILROAD Company, Attn: General Manager - Real Estate, Real Estate Department, 1400 Douglas Street, Stop 1690, Omaha, Nebraska 68179; and to INDUSTRY at: 423 West 300 South, Suite 200, Salt Lake City, UT 84101, or at such other address as a party may designate in notice given to the other party. Mailed notices shall be deemed served five (5) days after deposit in the U.S. Mail. Notices which are personally served or sent by courier service shall be deemed served upon receipt.

Article 21. ASSIGNMENT.

- A. INDUSTRY shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease, without the prior consent of RAILROAD, which consent may be denied at RAILROAD's sole and absolute discretion. Any purported transfer or assignment without RAILROAD's consent shall be void and shall be a default by INDUSTRY. RAILROAD hereby consents to an assignment of this lease to any "follow-on" contractor performing work pursuant to a contract with the U. S. Government.
- B. Subject to this Article 21, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Article 22. CONDEMNATION.

- A. If, as reasonably determined by RAILROAD, the Premises cannot be used by INDUSTRY because of a condemnation or sale in lieu of condemnation, then this Lease shall automatically terminate. RAILROAD shall be entitled to the entire award or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award or proceeds for the value of the leasehold estate created by this Lease. Notwithstanding the foregoing, INDUSTRY shall have the right to pursue recovery from the condemning authority of such compensation as may be separately awarded to INDUSTRY for INDUSTRY's relocation expenses, the taking of INDUSTRY's personal property and fixtures, and the interruption of or damage to INDUSTRY's business.

Article 23. ATTORNEY'S FEES.

- A. If either party retains an attorney to enforce this Lease (including, without limitation, the indemnity provisions of this Lease), the prevailing party is entitled to recover reasonable attorney's fees.

Article 24. RIGHTS AND OBLIGATIONS OF THE PARTIES.

- A. If any of the rights and obligations of either party under this Lease are substantially and negatively affected by any changes in the laws applicable to this Lease, whether statutory, regulatory or under federal or state judicial precedent, then such party may require the other party to enter into an amendment to this Lease to eliminate the

negative effect on said party's rights and obligations, to the extent reasonably possible.

Article 25. ENTIRE AGREEMENT.

- A. This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction, including, without limitation, Lease Audit No. 248609 and any other lease under which all or any portion of the Premises was leased to INDUSTRY.
- B. Notwithstanding the prior sentence, INDUSTRY shall retain any and all obligations and liabilities which may have accrued under any other such agreements prior to the commencement of the term of this Lease. This Lease may be amended only by a written instrument signed by RAILROAD and INDUSTRY.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first herein written.

Railroad:  
**UNION PACIFIC RAILROAD COMPANY**

Industry:  
**ENERGY SOLUTIONS INC**

By: \_\_\_\_\_

General Director, Real Estate

By: \_\_\_\_\_

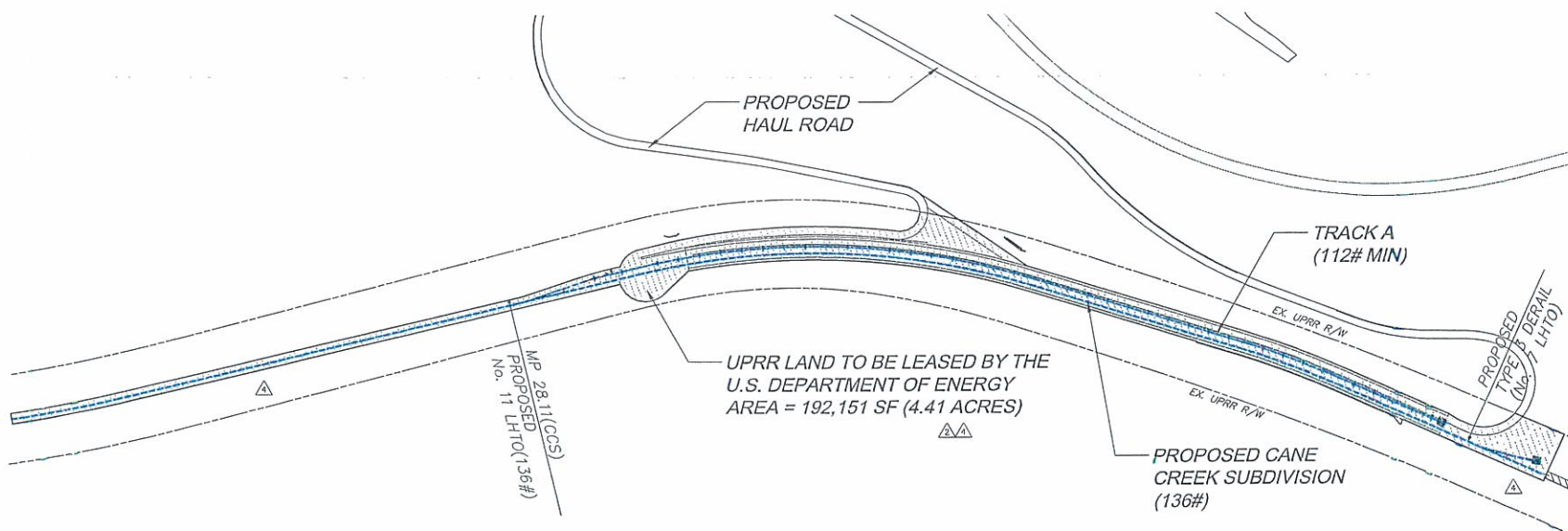


EXHIBIT "A"

REVISION #	BY	DATE	DESCRIPTION
1	DE	10/21/08	MODIFIED LAND LEASE ACREAGE
2	DE	11/24/08	MODIFIED LAND LEASE LIMITS

**CALDWELL  
RICHARDS  
SORENSEN**  
ANSWERS TO INFRASTRUCTURE

1433 North 1075 West  
Suite 110  
Farmington, UT 84025  
Phone: (801) 939-5585  
Fax: (801) 939-5570  
www.crsengineering.com

**FIBER  
OPTIC  
CABLE!** CALL BEFORE YOU DIG  
1-800-336-9193



DRAWN BY: D.EYRE  
DATE: OCTOBER 6, 2008  
SCALE: AS SHOWN  
PROJECT NO: 07170  
DRAWING NO: MOAB 100% RAIL DESIGN

**LEGEND:**

---	RR R.O.W./BOUNDARY LINE
---	EX. RR OWNED TRACK
---	EX. IND. OWNED TRACK
---	PROP. RR OWNED TRACK
---	PROP. IND. OWNED TRACK
---	EXISTING FENCE

<b>UNION PACIFIC RAILROAD</b>	
MP 27.89 TO 28.54 CANE CREEK SUBDIVISION, DENVER DIVISION MOAB, UTAH	3
TRACK TO SERVE: U.S. DEPARTMENT OF ENERGY	5

## EXHIBIT C

### UNION PACIFIC RAILROAD INSURANCE REQUIREMENTS

Lessee shall, at its sole cost and expense, procure and maintain during the life of this Lease the following insurance coverage:

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a single limit of at least \$1,000,000 each occurrence or claim and an aggregate limit of at least \$2,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability
- Products and completed operations

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- The employee and workers compensation related exclusions in the above policy apply only to Lessee's employees
- The exclusions for railroads (except where the Premises is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Waiver of subrogation
- Designated Premises Pollution Coverage (CG00-39), unless Lessee does not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substance (as defined in Section 7F of Exhibit B to this Lease).

B. Business Automobile Coverage insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- The employee and workers compensation related exclusions in the above policy apply only to Lessee's employees
- The exclusions for railroads (except where the Premises is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.

C. Workers Compensation and Employers Liability insurance including but not limited to:

- Lessee's statutory liability under the workers' compensation laws of the state where the Premises are located
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee

If Workers Compensation insurance will not cover the liability of Lessee in states that require participation in state workers' compensation fund, Lessee shall comply with the laws of such states. If Lessee is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement which shall be indicated on the certificate of insurance:

- Alternate Employer Endorsement

D. Umbrella or Excess Policies In the event Lessee utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.

Other Requirements

E. Punitive damage exclusion must be deleted, which deletion shall be indicated on the certificate of insurance.

F. Lessee agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Lessor. Lessee further waives its right of recovery, and its insurers also waive their right of subrogation against Lessor for loss of its owned or leased property or property under its care, custody and control. Lessee's insurance shall be primary with respect to any insurance carried by Lessor. All waivers of subrogation shall be indicated on the certificate of insurance.

G. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Lessor as an additional insured. The coverage provided to Lessor as additional insured shall not be limited by Lessee's liability under the indemnity provisions of this Lease. Severability of interest and naming Lessor as additional insured shall be indicated on the certificate of insurance.

H. Prior to the execution of this Lease, Lessee shall furnish to Lessor original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Lessor in writing of any cancellation or material alteration. Upon request from Lessor, a certified duplicate original of any required policy shall be furnished.

I. Any insurance policy shall be written by a reputable insurance company acceptable to Lessor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the Premises are located.

J. Lessee WARRANTS that this Lease has been thoroughly reviewed by Lessee's insurance agent(s)/broker(s), who have been instructed by Lessee to procure the insurance coverage required by this Lease and acknowledges that Lessee's insurance coverage will be primary.

K. If Lessee fails to procure and maintain insurance as required, Lessor may elect to do so at the cost of Lessee plus a 25% administration fee.

L. The fact that insurance is obtained by Lessee or Lessor on behalf of Lessee shall not be deemed to release or diminish the liability of Lessee, including, without limitation, liability under the indemnity provisions of this Lease. Damages recoverable by Lessor shall not be limited by the amount of the required insurance coverage.